Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition for Rulemaking Regarding the	)	RM No. 11510
Transition of Part 22 Cellular Services	)	
to Geographic Market-Area Licensing	)	

COMMENTS OF AT&T INC.

AT&T Inc., on behalf of AT&T Mobility LLC and its wholly-owned and controlled wireless affiliates (collectively "AT&T"), hereby submits its comments in support of the above-captioned Petition for Rulemaking ("*Petition*") filed by CTIA—The Wireless Association® ("CTIA").[1] The CTIA Petition seeks to transition Part 22 cellular licensing from burdensome site-by-site licensing to a geographic market area-based license system. To effectuate this transition, CTIA proposes that the Commission reissue all cellular licenses to incumbents on a Cellular Market Area ("CMA") basis in place of their existing Cellular Geographic Service Area ("CGSA") licenses.

AT&T strongly agrees with CTIA that changing the cellular licensing rules would achieve several important public interest benefits. The proposed changes are consistent with the new Administration's focus on efficiency in the way agencies and industries do business. By removing unnecessary administrative burdens, the revised cellular licensing rules will streamline

[1] *See Wireless Telecommunications Bureau Seeks Comment on Petition for Rulemaking to Transition Part 22 Cellular Services to Geographic Market-Area Licensing*, Public Notice, RM No. 11510, DA 09-5 (rel. Jan. 5, 2009) ("*Notice*"); Petition for Rulemaking of CTIA—The Wireless Association® (filed Oct. 8, 2008) ("*Petition*"). The last time the Commission considered requests to modify the cellular licensing rules – in the *Year 2000 Biennial Review Order* – the Commission stated that future modifications to the cellular rules should be proposed "in the form of a petition for rule making." *See Year 2000 Biennial Regulatory Review; Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services*, Report and Order, 17 FCC Rcd 18401, ¶ 82 (2002).

the extension of digital wireless services to the public. Further, the proposed changes are needed to create parity with other Commercial Mobile Radio Service ("CMRS") licensing regimes, satisfying the Commission's preference for technology-neutral regulations.

I. CURRENT SITE-BASED LICENSING REQUIRES LICENSEES TO FILE AND THE COMMISSION TO ACCEPT AND REVIEW INFORMATION THAT DOES NOT PORTRAY DIGITAL COVERAGE

CTIA's petition comes at an opportune time, given the recent transition from analog to digital services, as this transition made the Part 22 cellular licensing rules obsolete.[2] As CTIA explained, "the current site-by-site licensing regime, based upon 32 dBu contours, bears no relationship to the digital services being provided today. The 32 dBu contour, in fact, is a predicted service contour based upon analog service and, more particularly, analog service provided pursuant to the AMPS standard."[3] However, cellular licensees have largely replaced analog AMPS technologies with fully digital air interfaces, such as GSM, CDMA, 1xRTT, EDGE, EvDO, and HSPA, each with unique signal strength requirements. Accordingly, site-specific cellular data currently collected by the Commission no longer provides the Commission, or any other interested party, with an understanding of where, and how, cellular digital services are actually deployed.

Cellular licensing rules that require the Commission to accept and review site-specific analog-based filings, which convey little, if anything, about a licensee's real world digital

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[2] In 1981, the Commission established a requirement that all cellular radiotelephone licensees provide AMPS compatible analog cellular service. In 2002, the Commission concluded that it was necessary to eliminate the analog service requirement because it imposed unique costs and impeded spectral efficiency. The Commission determined that the analog service requirement should be phased-out gradually over a five-year period, which commenced on the effective date of the *Analog Sunset Order* (*i.e.*, February 18, 2003). *See In the Matter of Year 2000 Biennial Regulatory Review - Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and Other Commercial Mobile Radio Services*, Report and Order, 17 FCC Rcd 18401, ¶ 11 (2002).

[3] *Petition* at 6.

coverage, wastes Commission resources. Detailed site-specific data is not needed for the Commission to advance the efficient use of spectrum or foster competition in the wireless arena, as is evident from the competitive state of the wireless industry and the proliferation of advanced wireless services over spectrum bands that are not subject to site-specific licensing rules.[4] Given that the data collected in a cellular licensing filing is of limited value in a digital era, the collection of such data serves no meaningful purpose and should be discontinued.

Transitioning away from these site-based cellular licensing rules as suggested by CTIA to eliminate the preparation and gathering of unnecessary information is consistent with the Administration's recent call for efficiency in federal governance. Indeed, the President recently noted "[w]e can no longer afford to sustain the old ways when we know there are new and more efficient ways of getting the job done,"[5] and, in announcing the first ever appointment of a Chief Performance Office, the President noted that such a position was needed to work hand-in-hand with agencies to "run their agencies with greater efficiency."[6] Acting-Chairman Copps also has underscored this commitment to efficiency, noting that attending to unnecessary "backlogs of routine items from stakeholders . . . might actually boost our sagging economy."[7] The public interest and the goals set by the Administration and the FCC strongly support the transition of

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[4] *See* Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, *Thirteenth Report*, WT Docket No. 08-27 (2009).

[5] Remarks of President Barack Obama on the Chief Performance Officer, Associated Press (Jan. 7 2009), *available at* http://www.youtube.com/watch?v=6Mq96xTompY.

[6] *Id.*

[7] Remarks of Acting Chairman Michael J. Copps to the Federal Communications Commission Staff, at 4 (Jan. 26, 2009), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-288096A1.doc.

Part 22 licensing practices from those that require the preparation and collection of useless data to a substantially more efficient market-area based system.

II. TRANSITIONING CELLULAR LICENSING TO GEOGRAPHIC MARKET AREA LICENSING WILL REMOVE UNNECESSARY ADMINISTRATIVE BURDENS AND INEFFICIENCIES THAT DELAY THE DEPLOYMENT OF ADVANCED WIRELESS SERVICES.

The collection and maintenance of site-specific cellular data is also time-consuming and burdensome both for wireless licensees and the Commission. Digital networks evolve frequently as licensees strive to increase network reach and address capacity issues on a nearly continuous basis. As part of their ongoing digital deployments, cellular licensees constantly adjust the power, direction and tilt of antennas, and other network attributes to address customer needs and improve network performance. Each routine adjustment triggers the need for a filing and each filing requires substantial time and resources to prepare, file and maintain—time and resources that are grossly out of proportion to the negligible value of the information provided.

Continued adherence to outdated site-based cellular licensing rules imposes the burdens of inefficiency on cellular licensees. Many cellular licensees, like AT&T, hold radio authorizations in spectrum bands other than cellular, such as 2 GHz PCS. Consistent licensing rules across the spectrum bands authorized for mobile service would allow cellular licensees to manage their spectrum assets without regard to the radio service in which those bands are authorized. Licensees could implement consistent processes across nearly all of their licensed spectrum bands, rather than wasting resources on accounting for multiple exceptions. Yet, current Part 22 licensing rules restrict the ability of cellular licensees to quickly modify their cellular networks as needed to adapt to customers' changing needs. This level of inflexibility leads to network inefficiency, as well as administrative inefficiency. It further leads to delays in the provision of advanced wireless services, as a routine change to a cellular network requires the

cellular licensee to delay the effect of the change in order to prepare and prosecute site-based filings.

Relieving cellular licensees and the Commission of this time-consuming exercise will increase administrative efficiencies while simultaneously fostering the faster and more efficient provision of next-generation digital technologies and services. The FCC and licensees should be relieved of these unnecessary clerical tasks and divert their resources to more critical priorities.

III. TRANSITIONING CELLULAR LICENSING TO GEOGRAPHIC MARKET AREA-BASED LICENSING IS NECESSARY TO MAINTAIN REGULATORY PARITY BETWEEN CELLULAR AND COMPETITIVE SERVICES.

Shifting cellular licensing to a geographic market area-based license system will also further the Commission's goal of technology-neutral regulations, and in doing so, create regulatory parity among competitive wireless services.[8] In auctioning off and distributing 800 MHz ESMR, PCS, AWS, and 700 MHz spectrum for advanced wireless and data services, the Commission repeatedly concluded that market area licensing better promotes efficient network development, while providing adequate interference protection among licensees.[9] As CTIA noted, the "regulations for spectrum bands competitive with 800 MHz cellular . . . are uniformly licensed on a market-basis and site-based information is not necessary for the efficient administration of those services."[10] As previously noted, AT&T, and likely other CMRS

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[8] *See Implementation of Section 3(n) and 332 of the Communications Act*, Second Report and Order, 9 FCC Rcd 1411, 1418 (1994) (stating that one of Congress' principal objectives in amending Section 332 of the Communications Act was "to ensure that similar services would be subject to consistent regulatory classification" and that it was the intent of Congress that "consistent with the public interest, similar services are accorded similar regulatory treatment"); *see also Petition* at 7.

[9] *See* 47 C.F.R. §§ 90.683 (800 MHz ESMR); 24.102 (narrowband PCS); 47 C.F.R. § 24.202 (broadband PCS); 27.6(h) (AWS); 27.6(b),(c) (700 MHz).

[10] *Petition* at 8.

licensees holding both cellular and non-cellular licenses, seeks to benefit from those efficiencies and operate its wireless network as a combined network without regard to spectrum band.

The Commission's preference for market based licensing has also manifested itself in the Commission's decision to transition other site-based services to geographic-based licensing, including in the 900 MHz SMR, 800 MHz SMR, paging, and 220 MHz services.[11] For these services, the Commission found that a conversion to geographic-based licensing serves the public interest by (1) encouraging the transition from analog to digital technologies; (2) streamlining Commission recordkeeping; (3) avoiding disruption of existing services; (4) protecting incumbent licensees from interference from potential new entrants; and (5) providing flexibility for incumbents to modify the operating parameters of their networks.[12]

The same (or similar) rationales that justified the Commission's decision to convert to geographic-based licensing for these other radio services also justify converting the licensing rules for cellular service to a geographic market area-based system. Such a conversion would recognize the transition that has occurred from analog to digital technology, reduce the recordkeeping burden on the Commission of collecting unnecessary technical data on all sites that make up the boundary of each CGSA, protect incumbent cellular licensees without risking a loss of service, and allow licensees to manage their networks to maximize efficiency.

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[11] *Petition* at 11-13 (describing the conversion of these services to geographic-based licensing).

[12] *See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 936-940 MHz Bands Allotted to the SMR Pool*, Second Order on Reconsideration and Seventh Report and Order, 11 FCC Rcd 2639, ¶¶ 1, 42 (1995); *Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band*, Second Report and Order, 12 FCC Rcd 19079, ¶¶ 2, 72 (1997); *Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems*, Second Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 2732, ¶¶ 57-58 (1997); *Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band for the Private Land Mobile Radio Service*, Memorandum Opinion and Order on Reconsideration, 13 FCC Rcd 14569, ¶ 103-104 (1998).

IV. CONCLUSION

For the foregoing reasons, AT&T strongly supports CTIA's proposal to transition Part 22 cellular licensing to a geographic market area-based license system. AT&T urges the FCC to proceed expeditiously with the issuance of a Notice of Proposed Rulemaking to modify the cellular regulations in accordance with CTIA's petition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Otis T. Robinson, do hereby certify that on this 23nd day of February 2009, I caused copies of the foregoing "Comments of AT&T, Inc." to be delivered to the following via First Class U.S. mail and/or email.

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